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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,168	10/02/2000	Robert Alan Cochran	10992806-1	4123

7590 07/28/2004

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/678,168

Applicant(s)

COCHRAN, ROBERT ALAN

Examiner

Akiba K Robinson-Boyce

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☐ Other: _____

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER

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Continuation of 5. does NOT place the application in condition for allowance because: the Kilkki et al (US 6,011,778) reference alone discloses the limitations of claims 1, 6, 10, 15, 2-3, 11-12 and the combination of Kikki et al(US 6,011,778), and Storch et al (US 5,920,846) discloses the limitations of claims 4-5, 7-9, 13-14. As per claim 1, the applicant argues that it is not clear as to what, in Kilkki, the examiner finds equivalent to the claimed network servicing devices. As stated in the rejection, the NBR (nominal bit rate) connection by way of UNI (user network interface as shown in Col.5, lines 60-63) over an NBR service connection, represents request generating device since the user is shown to make an NBR request via the network in col. 6, lines 36-42. In this case, the actual UNI serves as the actual device, while the NBR connection is facilitated through the UNI, and represents the source for making the request through the device. The applicant argues that no component in Kilkki calculates a remaining time equal to the difference between expected time for serving a request established for the request generating device and the time elapsed during servicing of the request and waits for a length of time based on the calculated remaining time prior to servicing another, instead of the UNI/NSD waiting to send the cell to the network node. However, Kilkki does wait before sending the cell to the network node. As shown in Col. 5, lines 51-59, a timing technique is shown where the difference in time calculated is extrapolated onto a known response function. This extrapolation represents incorporating the wait for a length of time and the difference in time represents the remaining time. As per claim 10, the applicant's arguments are similar to that of claim 1, and for this reason, claim 10 is rejected for the same reasons as claim 1. In addition, the applicant argues that in Kilkki et al, neither of the request servicing devices, the UNI/NSD and the network node maintain information about the instantaneous rate or request servicing for a set of other devices. However, it is the UNI/NSD that facilitates this maintenance through computation of the maximum NBR value. This maximum NBR value is to remain constant. Keeping this value constant represents maintainance, as shown in Col. 11, lines 22-24.